



LOUISIANA DEPARTMENT OF INSURANCE

P.O. Box 94214  
BATON ROUGE, LOUISIANA 70804-9214  
PHONE (225) 342-5900  
FAX (225) 342-3078  
<http://www.lidi.la.gov>

LOUISIANA  
Directive Number 182  
March 10, 2004

LSA-R.S. 22:2  
LSA-R.S. 22:620-621  
LSA-R.S. 22:653  
REGULATION 78

**NOTICE TO ALL INSURERS AUTHORIZED  
TO TRANSACT HEALTH AND ACCIDENT INSURANCE IN LOUISIANA**

**RE: Policy Forms – Applicability of LSA-R.S. 22: 1513.C.(2)(b)**

The Department of Insurance receives and reviews policy forms that consist of stand alone dental plans, and various types of limited benefit and major medical plans that may contain dental benefits or an option for dental benefits. The majority of these plans are designed such that the insured obtains dental benefits through either a network of providers that have contracted with the insurer for their reimbursement or the insured is allowed to obtain benefits through a non-network provider wherein their reimbursement may be based on a reasonable and customary fee.

A determination has been made by the Department of Insurance that certain provisions in previously approved contracts of insurance are in conflict with LSA-R.S. 22:1513, freedom of choice of dentist in health plans. A sampling of these products has revealed that health insurance policies containing dental benefits that use a network of providers and allow the use of non-network providers, (1) have variable **deductibles** between the two types of providers; (2) have variances in **benefit** amounts payable between network and non-network providers; (3) have variances in **co-insurance or co-payments** between network and non-network provider services; (4) have variances in **benefit maximums** between network and non-network providers.

The "freedom of choice" language in the law reads as follows:

§ 1513.B.(1) – No health insurance policy or employee benefit plan which is delivered, renewed, issued for delivery, or otherwise contracted in this state shall:  
(a) Prevent any person who is a party to or beneficiary of any such health insurance policy or employee benefit plan from selecting the dentist of his choice

to furnish dental services offered by the policy or plan, or interfere with such selection. (Emphasis added)

Further, § 1513.C.(2)(b) provides that a dentist chosen by the insured, known as a “non-contracting provider dentist”, must be paid or reimbursed in the same amount as a contracting dentist as follows:

§ 1513.C.(2)(b) – The payment or reimbursement for a non-contracting provider dentist shall be the same as the payment or reimbursement for a contracting provider dentist; however, the health insurance policy or the employee benefit plan shall not be required to make payment or reimbursement in an amount that is greater than the amount so specified in the policy or plan or that is greater than the fee charged by the providing dentist for the dental care services rendered.

A careful reading of the statute discloses that the only time an insurer can deviate from the requirement that the “payment or reimbursement for a non-contracting provider dentist shall be the same as the payment for the contracting provider dentist” is if the fee normally charged by the non-contracting provider dentist is less than the fee paid by the contracting provider dentist.

Additionally, Subsection D of §1513 states that any provision in a policy that is “contrary to this Section shall, to the extent of such conflict, be void”.

Insureds, beneficiaries, and participants, who are covered under a health insurance policy that provides dental care services may have such services provided by the dentist of their choice, and payments or reimbursement by the insurer must be done on a nondiscriminatory basis as provided for in LSA-R.S. 22:1513.F.(2)(c). The use of variances in any of the five categories listed above (deductibles, benefit amounts, co-insurance or co-payments, benefit maximums and preventive care) would be contrary to the Act’s purpose and would render the freedom of choices given to the insured nugatory.

It is this Department’s position that the statute, when read as a whole, clearly conveys the Legislature’s intent that the choice given the insured was not to be undermined or evaded by unfair and low reimbursement levels paid to non-contracting provider dentists or by including cost shifting provisions that penalize the insured for using non-contracting provider dentists, and by such devices “interfere” with the right to choose a dentist outside of the network. Likewise, the Legislature did not intend to undermine the efficacy of PPO’s by allowing non-contracting provider dentists to demand payment from the insurer in amounts greater than that paid to contracting provider dentists.

Therefore, there may not be any variations in the benefits provided, or the terms and conditions of payment, in insurance contracts providing dental coverage via a network of preferred providers if the insured opts to use an out-of-network provider.

Compliance audits will be performed by random selection and a retrospective review process will be utilized to verify compliance of approved filings. If it is determined that a policy form does not comply with LSA-R.S. 22: 1513.C.(2)(b), approval of that form will be withdrawn in accordance with Regulation 78 § 10107.I. In order to reduce the necessity for a corrective action plan, the Department strongly encourages all insurers to immediately review their policy forms that are on file with the LDI to determine if any forms contain provisions contrary to the public policy of this state and LSA-R.S. 22:1513.C.(2)(b).

It the insurer determines that their policy forms do not comply with LSA-R.S. 22:1513.C.(2)(b), the insurer is required to revise and either re-file or amend their forms pursuant to Regulation 78 § 10107.C.2.a. & g.

This Directive is applicable only to health insurance policies to the extent they provide benefits for dental care expenses incurred as a result of an abnormality, accident or dental disease. (See LSA-R.S. 22:1513A(4).) It is not applicable to dental care expenses incurred for preventive care, in regards to which variations in the four categories listed above are not prohibited.



---

**J. ROBERT WOOLEY**  
**COMMISSIONER OF INSURANCE**